



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

LACONIA EDUCATION ASSOCIATION,
NEA-NEW HAMPSHIRE

Complainant

v.

LACONIA SCHOOL BOARD

Respondent

CASE NO. T-0239:7

DECISION NO. 84-75

APPEARANCES

Representing Laconia Education Association
Wally Cumings, UniServ Director, NEA-N.H.

Representing Laconia School Board
Jay C. Boynton, Esquire

Also in attendance:

Frank Poole
James O. Anderson
Richard H. Coggin, Jr.
George Minior

BACKGROUND

On March 26, 1984, the Laconia Education Association, NEA-New Hampshire (Association) filed an improper practice charge against the Laconia School Board (Board) alleging violations of RSA 273-A:5 I, (a), (e) and (g). Specifically, the Association charged that the School Board had changed policies including teacher evaluations unilaterally and without negotiations which effected the terms and conditions of employment of the teachers and as such were mandatory subjects of negotiation. The refusal of the Board to negotiate constitutes an unfair labor practice, alleged the Association.

The Laconia School Board denied any breach of RSA 273-A and argued that the changes made involved "the methodology of the employer regarding evaluations".

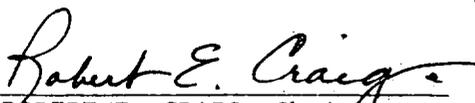
A hearing was held at the PELRB offices in Concord, N.H. on September 11, 1984 with all parties represented.

FINDINGS OF FACT AND RULINGS OF LAW

1. The Laconia School Board did adopt a new policy (#4719) on November 15, 1983 which sought to increase the number of evaluations of teachers with less than three years service and also establishing evaluations of non-probationary teachers on a minimum of once a year basis.
2. A collective bargaining agreement between the Laconia Education Association and the School Board exists and is in force for the years 1982-1985.
3. Article VI of the above contract, labeled "Teacher Evaluation" specifies certain conditions for the evaluation process but does not specify the number of evaluations for the probationary or non-probationary teachers.
4. Testimony and exhibits established clearly that the new policy (#4719) did alter past practice both in the number of evaluations yearly of probationary teachers and the establishing at least annual evaluations of non-probationary teachers (Re: policy #6821).
5. Following the adoption of new evaluation policy #4719, the President of the Teachers Association did ask the School Board to negotiate about the changes and the School Board Chairman did inform the Association that the Board was of the opinion that these changes did not effect "teacher working conditions" and therefore were within management's prerogative and subject to negotiation.
6. The allegations brought by the Association here are for refusal to negotiate in good faith, a breach of RSA 273-A:5 I, (e), an unfair labor practice prohibited under the act and failure to grieve this policy is no prohibition to recourse to the PELRB since PELRB is charged under the act with determining what subjects must/can/must not be negotiated.
7. That while it is clear under State law and regulations of the State Board of Education that evaluation of teachers is solely a managerial responsibility (the actual conduct of the evaluations must be carried out by administrative personnel), the conditions under which the evaluation takes place and the rights of the teacher(s) involved is, and has rightly been, a proper subject for negotiation since this process clearly effects the "terms and conditions of employment" as specified by RSA 273-A and the PELRB. The evaluation policy and the conduct of the evaluation(s) are clearly rights which are contained in the phrase "managerial policy within the exclusive prerogative of the public employer" but the impact of the policy and specifically the procedure, are also clearly a mandatory subject of negotiation.
8. The current contract recognizes that evaluation is a managerial responsibility and also recognizes that management may change evaluation plans (Section 66).

DECISION

1. The PELRB declines to find an unfair labor practice;
2. Orders that in future negotiations the parties must negotiate any impact of the changed policy on teachers working conditions.


ROBERT E. CRAIG, Chairman

Signed this 12th day of October, 1984.

By unanimous vote. Robert E. Craig, Chairman presiding; members James Anderson and Richard Roulx present and voting. Also present, Evelyn C. LeBrun, Executive Director.